

Agenda

UACIM BOARD OF DIRECTORS MEETING

April 12, 1995, 4:00-5:00

Olympia Park Hotel, Board Room

4:00 PM	Call To Order & Welcome	Gary Herbert
	Review of Board Member's Absent	Gary Herbert
	Approval of March 9, 1995, Minutes	Gary Herbert
	Board Ratification involving Grand County Special Districts	Gary Herbert
	Questions/Concerns involving Uintah County Recreation District	Gary Herbert
	Brokerage Report	Jess Hurtado
	1. Board Options regarding Surplus Held in Escrow & Claim Payment Priority	
	2. Insurance Declination Letters for Drivers	
	UACIM Assistant Administrator	Brent Gardner
	Monthly Financial Statement Review	Brent Gardner
	Loss Prevention Report	David Nelson
	1. County Accident Review Boards	
	Litigation Committee & Claims Report	Kent Sundberg, Doug Alexander
	1. Statute Requirements for Insurance Bidding	
	Box Elder Third-Party Nursing Home Agreements	Brent Gardner
	Interagency Agreements	Brent Gardner
	Budget for Legal Council	Brent Gardner
	Other Business	Gary Herbert
5:00 PM	Membership Meeting	Ballroom I

NOTES:

UAC INSURANCE MUTUAL MINUTES, BOARD OF DIRECTORS MEETING

**April 12, 1995, 4:00 p.m.
Olympia Park Hotel, Park City**

Board Members Present: Gary Herbert, *President*, Utah County Commissioner
Gerald Hess, *Vice President*, Davis County Deputy Attorney
Robert Gardner, *Secretary*, Iron County Commissioner
Dennis Ewing, *Comptroller*, Tooele County Clerk
Ken Brown, Rich County Commissioner
Sid Groll, Cache County Sheriff
Ty Lewis, San Juan County Commissioner
Gary Sullivan, Beaver County Commissioner

Board Members Absent: Sarah Ann Skanchy, Cache County Council Member

Others Present: Glen McKee, **Uintah County Commissioner**
Jerry Gollins, **Uintah County Administrative Assistant**
Kent Sundberg, Utah County Deputy Attorney
Brent Gardner, UACIM Administrator
Sonya White, UACIM Administrative Assistant
David Nelson, UACIM Loss Prevention Manager
Jess Hurtado, UACIM Broker
Keri Chappell, UACIM Broker
Doug Alexander, UACIM Claims Administrator

CALL TO ORDER

Chairman Gary Herbert called the meeting to order and welcomed Commissioner McKee and Jerry Gollins to the meeting.

REVIEW OF BOARD MEMBERS ABSENT

Sarah Ann Skanchy informed the Board at the March 9 meeting that she would be out of town and unable to attend this meeting. Gary Sullivan made a motion to excuse Sarah Ann from this meeting. Ken seconded the motion and the motion carried.

REVIEW AND APPROVAL OF MARCH 1995 MINUTES

The minutes from the March 9, 1995, meeting were previously reviewed. Ken made a motion to accept the minutes as written. Gerald seconded the motion and the motion carried.

RATIFICATION INVOLVING GRAND COUNTY SPECIAL DISTRICTS

Gary Herbert reviewed the letter sent to Earl Sires, Grand County Administrator, on March 29, 1995, binding the six special districts listed until June 1, 1995, to allow time for these districts to find coverage elsewhere. Dennis made a motion to ratify this letter. Sid seconded the motion and the motion carried.

QUESTIONS/CONCERNS INVOLVING UINTAH COUNTY RECREATION DISTRICT

Jerry Gollins is the new Uintah County Insurance Coordinator and expressed his concerns regarding the increase of Uintah County's 1995 premium, although the Uintah County Recreation District was eliminated from coverage under UACIM. Background was explained by Brent that at the time of UACIM's inception, the members were told that they would have equivalent, if not greater, coverage with UACIM than their prior carriers. Each member county's prior insurance policy was reviewed and the issue of special districts was immediately addressed. Most of the counties thought that their special districts were covered by their previous carriers but upon reviewing the prior policies they were not. The UACIM Board took an inventory of all the special districts and made a policy decision that in order for a special districts to be covered under UACIM the county commissioners have to have the ability to appoint a majority of the Board, they have to pay the salaries of the employees and they have to fund 50% of the budget out of county revenues. If the district did not meet these criteria then they had to find insurance elsewhere. UACIM wanted the county commission to have control over the operations of the district, because if they do not, then who ever had the control should buy the insurance. This is what happened to the Uintah Recreation District.

Brent continued by explaining that the 1995 premium increase was a separate issue. The premium increase was based on the UACIM Board of Directors study of the county losses since the inception of UACIM. A loss sensitive formula was calculated and adopted based on the number of claims and the amount paid per claim, per county. Uintah County had the highest loss ratio of any member county, in which the largest paid claims did not relate to the Recreation District which was covered since inception. Max Adams, Uintah County Commissioner, who was on the UACIM Board of Directors until his unsuccessful campaign in 1994, was involved in extensive discussions and decisions regarding the special districts and premium contributions as well as the Uintah County Recreation District. The Uintah County claims could go down now that the Recreation District is not covered under UACIM, therefore, improving the county's loss ratio in the future. Also, Uintah County complied with the recommendations made by David Nelson, UACIM Loss Prevention Manager, involving the Recreation District that will benefit the new carrier. Jerry thanked the Board for their time and explanations.

MEMBERSHIP MEETING

Gary Herbert reviewed the agenda for the membership meeting which will immediately follow this meeting. Information being discussed has been previously sent to the membership and those Board members and staff that will be speaking to the membership were prepared.

BROKERAGE REPORT

1. Board Options Regarding Surplus Held in Escrow & Claim Payment Priority Pursuant to the Insurance Department audit, Jess handed to the Board five written options for the Board's consideration and discussion of what the UACIM would do if the loss fund and stop loss aggregate were exhausted (see attachment #1). One option is to make the pool assessable (Jess will review the insurance code pursuant to recent legislation). Senator Leonard Blackham and Representative Tom Hatch have committed this year to work with the insurance department to put together legislation that may benefit existing pool's in the State of Utah. Jess reviewed each option with the Board. The Board will contemplate these options and discuss their decision at the next meeting.

2. Insurance Declination Letters for Drivers Jess reviewed copies of the letters used by Chubb Insurance Group when an employee is found to have a bad driving record. This is a standard response within the industry. The Board may want to adopt some type of similar procedure.

3. Jess has requested that Bob Lund, Underwriter for UACIM, as well as his senior claims adjuster, attend the next Litigation Management Committee (LMC) meeting to discuss the sexual molestation exclusion. Jess has also asked them to sit in at the next Board meeting scheduled for May 18. Kent will schedule the LMC meeting for May 17.

LITIGATION COMMITTEE & CLAIMS REPORT

1. **Statue Requirements for Insurance Bidding** Kent handed out a written report to the Board per their request at the March 9 Board meeting (see attachment #2). This same issue was brought up last year in the LMC meeting wherein Gary McKean volunteered to look into this matter. Section 63-30-32 indicates that a governmental entity can not renew or purchase liability insurance without going through a public bid process. The Board was concerned whether or not each county must go through a public bid process or if the counties are in compliance if UACIM goes through the process. Kent concluded and Gary McKean concurred that, on behalf of its member counties, UACIM supports purchase of excess liability insurance. Also, each county should comply with sections 63-30-32 and 63-56-20 in its individual purchase and renewal of boiler and machinery insurance and other kinds of insurance. Kent will work with Jess and Keri to make sure UACIM is in compliance with the requirements set forth in his report.
2. **Claims Report** Doug reported that there are no claims that are in need of Board authorization at this time. Do to the lack of time, Doug will give his report at the next Board meeting.

LOSS SUMMARY AND FINANCIAL STATEMENT REVIEW

Gary Herbert expressed his concern as to why the Board is behind on receiving the financial statements from AON. Keri explained that AON is short handed and is being audited. The January financials were faxed to Keri today for review and AON has promised to have the financials caught up by the next meeting. The Board will be prepared to review the January, February, March and possibly the April financials at the next meeting in May.

UACIM ASSISTANT ADMINISTRATOR

Brent quickly reviewed those publications that carried the ad for the Assistant Administrator. As of today, 58 applications have been received. Brent will review the applications and report to the Board at the next meeting.

LOSS PREVENTION REPORT

Gary Herbert expressed his concerns regarding the member county commissions/councils knowledge and/or involvement with losses. Brent has visited 13 counties this year and 10 out of the 13 commissions said that they do not have an Accident Review Board (ARB) and two out of the three that have an ARB are not actively meeting each month. Brent explained that he and David have discussed ways to get the county ARB up and operating. What they decided is that David will make a name list of those officials and/or employees who are on each county ARB. Then each month he will review the loss reports and send a letter to the ARB, of those counties that have had a claim, requesting a written response as to what action the ARB took involving a specific claim. In the case of a serious claim, David will go to the county and sit with the ARB and offer suggestions. The Board agreed that David should again send all the information to counties regarding the designation of an ARB that was sent last year. David added that during his risk reviews he is training the county on how to set up an ARB and actively utilize it. David reviewed his written report with the Board. The Board had no questions or comments at this time.

BOX ELDER THIRD-PARTY NURSING HOME AGREEMENTS

Brent explained that he received a letter from Kent regarding his (Kent's) concerns upon reviewing the Box Elder County Nursing Home Lease Agreements. Brent called John Rausch of Box Elder County and went over the concerns with him. Brent spoke to John today, before this meeting, wherein John concurred that UACIM's understanding of the document was correct and that Box Elder County did not recognize the concerns until they were pointed out to them. It is up to the Board how they want to proceed on this issue.

INTERAGENCY AGREEMENTS

Brent reported that he had tried several times to contact Gary Cornell regarding this issue. Finally, Brent found that Gary Cornell was not the person to address these concerns. After many calls, Brent found he must direct this issue to Lynn Borg of the State Lands and Forestry whom he has tried to contact without success. Brent will continue to try to contact Lynn and report to the Board at the next meeting.

BUDGET FOR LEGAL COUNCIL

Do to lack of time, this issue will be discussed at the next Board meeting. The next Board of Directors meeting is scheduled for May 18 at 10:00 a.m. at the UAC Offices.

Options Should the Loss Fund and the Aggregate be Exhausted

The following options are for consideration and discussion only. Should both the Loss Fund and the Stop Loss Aggregate be exhausted during any one year the Mutual must consider how the claims run off will be completed.

1. Assess each member for a pro-rata amount dollar amount to refund the loss fund in order to equal the negative dollar amount. The assessment could be based on the amount necessary to fund the deficit in relation to premium size and loss experience.
2. Pay out the existing filed claims on a first in, first out basis with any unfunded loss amount reverting back to the member. This could leave some counties to experience the entire self insured retention for either property or casualty.
3. Pay out the existing filed claims as the expenses come in, until the funds are exhausted and then any unfunded balance reverts back to the member.
4. Combine two or more claim years in order to fund the year with the negative balance.
5. There are various markets that purchase and run-off claims, the Mutual may choose to look into selling off the older claim years and allow another entity to run them out. However, there still liabilities should the claims exceed actuarial projections.



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M E M O R A N D U M

TO: UACIM Board of Directors

FROM: E. Kent Sundberg, Civil Division Chief, Utah County Attorney's Office and
Chairman, UACIM Litigation Management Committee *EKS*

DATE: April 12, 1995

RE: Statutory Bid Requirements for Purchase or Renewal of Liability Insurance

Section 63-30-32, Utah Code Annotated, 1953 as amended, indicates:

No contract or policy of insurance may be purchased or renewed
under this chapter, except upon **public bid** to be let to the lowest
and best bidder; . . .

To properly analyze the above-mentioned section, it is necessary to consider two other applicable sections of the Utah Governmental Immunity Act that appear to relate to the UACIM and other governmental insurance mutuals. Section 63-30-26, Utah Code Annotated, 1953 as amended, allows political subdivisions to join together to create and maintain reserve funds ". . . for the purpose of purchasing liability insurance to protect the cooperating subdivisions from any and all risks created by this chapter." Section 63-30-28, Utah Code Annotated, 1953 as amended, provides that "Any governmental entity within the state may purchase commercial insurance, self-insure, or self-insure and purchase excess commercial insurance in excess of the statutory limits of this chapter. . ."

The UACIM complies with the provisions of Sections 63-30-26 and 63-30-28, Utah Code Annotated, 1953 as amended, but the provisions of those sections do not appear to exempt the Mutual from complying with Section 63-30-32, Utah Code Annotated, 1953 as amended. It would be my opinion that the Mutual would need to use public bid procedures before it renews or purchases liability insurance. Though the term "public bid" is not specifically defined in the State Code, Section 63-56-20, Utah Code Annotated, 1953 as amended, sets forth the procedure that is required for the awarding of contracts under a sealed bid procedure. Some of the relevant requirements of that section include the requirement that an invitation for bids be prepared, the requirement of a public notice of the invitation for bids, and the opening of bids in public and

in the presence of one or more witnesses at the time and place designated in the invitation for bids.

CONCLUSION

The provisions of Sections 63-30-26, 63-30-28, and 63-30-32, Utah Code Annotated, 1953 as amended, do not appear to require each individual member county to go through a public bid process before the UACIM can renew its policy of liability insurance. However, it would be my opinion that the UACIM should itself follow the bid requirements of Section 63-56-20, Utah Code Annotated, 1953 as amended, before it renews or purchases its policy of liability insurance each year.

It would also be my opinion that each member county should comply with Section 63-30-32, Utah Code Annotated, 1953 as amended, in its purchase or renewal of insurance policies that are not covered by the UACIM, such as Boiler and Machinery insurance policies, and possibly Public Officials' Bonds and Public Employee Blanket Bonds.

